



09/832,718

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of:

Group Art Unit: 3714

Daniel L. McConnell, et al.

Examiner: Coburn, Corbett B.

Serial No.: 09/832,718

Attorney Docket: 069035-001

Filed: 4/11/2001

Title: A SYSTEM AND METHOD FOR USE OF A PERSONALLY
PORTABLE VIDEO DEVICE FOR VIEWING A LIVE EVENT

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO REVIVE APPEAL and PATENT APPLICATION
under 37 CFR 1.181
or in the alternative
under 37 CFR 1.137(b)

1. Applicants petition for revival of this application and the pending Appeal. This petition is made under 37 CFR 1.181. Should the petition under 37 CFR 1.181 be denied, the petition is made in the alternative under 37 CFR 1.137(b).

2. The Appeal pending in this application was dismissed in the Notification of Non-Compliance with 37 CFR 1.192(c) mailed on 26 November 2004. Since no claim stands allowed in the application, the application is abandoned.

3. The Appeal was dismissed because the Examiner found that the amended Appeal Brief filed on 2 September 2004 (mailed on 30 August 2004) failed to provide reasons that claims 9-11 and 33 are separately patentable, as was required under 37 CFR 1.192 for claims that are separately argued.

4. Current Rule 37 CFR 41 superseded 37 CFR 1.192 as of 13 September 2004. Current Rule 37 CFR 41 does not contain any requirement for providing reasons that claims are separately patentable for claims that are separately argued. Thus, as of the

date of the dismissal of the pending Appeal, 26 September 2004, there was no basis in the Rules to support the Examiner's dismissal of the Appeal. Accordingly, revival of the Appeal is requested under 37 CFR 1.181.

5. Should this petition be denied under 37 CFR 1.181, it is hereby declared for purposes of 37 CFR 1.132(b) that the entire delay in filing the required reply from the due date for the reply until the filing of this Petition was unintentional.

6. A replacement Appeal Brief formatted to comply with the requirements of 37 CFR 41 is submitted together with this Petition. Entry of this replacement Appeal Brief is requested.

7. No fee is due for this petition under 37 CFR 1.181. If this petition is denied under 37 CFR 1.181, and the petition is considered under the alternative as a petition under 37 CFR 1.132(b), the required petition fee of \$750.00 for a small entity is authorized to be charged to Deposit Account 503351. Any other fee required in support of this petition should also be charged to Deposit Account 503351.

Reg. No.: 34,865



SIGNATURE OF PRACTITIONER

Date: 1-6-2005

David G. Maire
(typed name of practitioner)

Beusse Brownlee Wolter Mora & Maire, P.A.
390 North Orange Avenue
Suite 2500
Orlando, FL 32801

telephone 407-926-7704